PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:
G.E. EHRLICH (1995) LTD.
11 Menachem Begin Street
52 521 Ramat Gan
ISRAEL

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference 29367	Date of mailing *(day/month/year)* 21/06/2005 **FOR FURTHER ACTION** See paragraphs 1 and 4 below
International application No. PCT/IL2005/000196	International filing date *(day/month/year)* 16/02/2005
Applicant YISSUM RESEARCH DEVELOPMENT COMPANY OF THE...	

1. [x] The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

   Filing of amendments and statement under Article 19:
   The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

   When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

   Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes 1211 Geneva 20, Switzerland, Fascimile No.: (41-22) 740.14.35

   For more detailed instructions, see the notes on the accompanying sheet.

2. [ ] The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. [ ] **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

   [ ] the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

   [ ] no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

   Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90*bis*.1 and 90*bis*.3, respectively, before the completion of the technical preparations for international publication.

   The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

   Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until **30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

   In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

   See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the International Searching Authority European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer Natalia Morancho Alcaine

(See notes on accompanying sheet)

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international pbulication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When? Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How? Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped),whether

(i) the claim is unchanged;

(ii) the claim is cancelled;

(iii) the claim is new;

(iv) the claim replaces one or more claims as filed;

(v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."

2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."

3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."

4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international appplication is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference	**FOR FURTHER ACTION**	see Form PCT/ISA/220 as well as, where applicable, item 5 below.
29367		
International application No.	International filing date *(day/month/year)*	(Earliest) Priority Date *(day/month/year)*
PCT/IL2005/000196	16/02/2005	16/02/2004
Applicant		
YISSUM RESEARCH DEVELOPMENT COMPANY OF THE...		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

[X] It is also accompanied by a copy of each prior art document cited in this report.

1. **Basis of the report**
   a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
      [ ] The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).
   b. [ ] With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. [ ] **Certain claims were found unsearchable** (See Box II).

3. [ ] **Unity of invention is lacking** (see Box III).

4. With regard to the **title,**
   [X] the text is approved as submitted by the applicant.
   [ ] the text has been established by this Authority to read as follows:

5. With regard to the **abstract,**
   [X] the text is approved as submitted by the applicant.
   [ ] the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings,**
   a. the figure of the **drawings** to be published with the abstract is Figure No. _____
      [ ] as suggested by the applicant.
      [ ] as selected by this Authority, because the applicant failed to suggest a figure.
      [ ] as selected by this Authority, because this figure better characterizes the invention.
   b. [ ] none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International Application No
PCT/IL2005/000196

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61K31/05 A61P3/10

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A61K A61P

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)
EPO-Internal, WPI Data, PAJ, BIOSIS, EMBASE, MEDLINE, CHEM ABS Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	"Cannabis-based medicines--GW pharmaceuticals: high CBD, high THC, medicinal cannabis--GW pharmaceuticals, THC:CBD." DRUGS IN R&D. 2003, vol. 4, no. 5, 2003, pages 306-309, XP009048624 ISSN: 1174-5886 page 307, 4th full paragraph	1-5
X	WO 99/53917 A (THE GOVERNMENT OF THE UNITED STATES OF AMERICA, REPRESENTED BY THE SEC) 28 October 1999 (1999-10-28) page 3, line 26-30; page 10, line 31-34; page 11, line 12-27; page 23, line 17-19	1-18

-/--

[X] Further documents are listed in the continuation of box C.

[X] Patent family members are listed in annex.

° Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier document but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
8 June 2005	21/06/2005

Name and mailing address of the ISA	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Borst, M

1

Form PCT/ISA/210 (second sheet) (January 2004)

INTERNATIONAL SEARCH REPORT

International Application No
PCT/IL2005/000196

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 03/063847 A (GW PHARMA LIMITED; WHITTLE, BRIAN; JAVID, FARIDEH, AFSHIN) 7 August 2003 (2003-08-07) page 1, line 18-25; page 2, line 28 - page 3, line 21	1-5
Y	WEISS LOLA ET AL: "Cytokine production in Linomide-treated nod mice and the potential role of a Th (1)/Th(2) shift on autoimmune and anti-inflammatory processes." CYTOKINE. 21 JUL 2002, vol. 19, no. 2, 21 July 2002 (2002-07-21), pages 85-93, XP002330933 ISSN: 1043-4666 figure 1; figure 4; page 87-91, paragraph entitled "Discussion"	1-23
Y	SRIVASTAVA M D ET AL: "DELTA 9 TETRAHYDROCANNABINOL AND CANNABIDIOL ALTER CYTOKINE PRODUCTION BY HUMAN IMMUNE CELLS" IMMUNOPHARMACOLOGY, ELSEVIER SCIENCE PUBLISHERS BV, vol. 40, no. 3, October 1998 (1998-10), pages 179-185, XP000957596 ISSN: 0162-3109 page 183-184, paragraph entitled "Discussion"	1-23

1

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No
PCT/IL2005/000196

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9953917 A	28-10-1999	AU 766988 B2	30-10-2003
		AU 3864699 A	08-11-1999
		CA 2329626 A1	28-10-1999
		EP 1071419 A1	31-01-2001
		JP 2002512188 T	23-04-2002
		WO 9953917 A1	28-10-1999
		US 6630507 B1	07-10-2003
WO 03063847 A	07-08-2003	EP 1482917 A1	08-12-2004
		GB 2384707 A	06-08-2003
		WO 03063847 A1	07-08-2003

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43*bis*.1)

Date of mailing *(day/month/year)* 21 June 2005 (21)
see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference	FOR FURTHER ACTION
see form PCT/ISA/220	See paragraph 2 below

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/IL2005/000196	16.02.2005	16.02.2004

International Patent Classification (IPC) or both national classification and IPC
A61K31/05, A61P3/10

Applicant
YISSUM RESEARCH DEVELOPMENT COMPANY OF THE...

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notifed the International Bureau under Rule 66.1*bis*(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:

European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Borst, M

Telephone No. +49 89 2399-8648

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

   ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

   a. type of material:

   ☐ a sequence listing

   ☐ table(s) related to the sequence listing

   b. format of material:

   ☐ in written format

   ☐ in computer readable form

   c. time of filing/furnishing:

   ☐ contained in the international application as filed.

   ☐ filed together with the international application in computer readable form.

   ☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 1,11,19 (examination and search of said claims only for the part relating to compounds according to formula (I))

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination *(specify)*:

☒ the description, claims or drawings *(indicate particular elements below)* or said claims Nos. 1,11,19 are so unclear that no meaningful opinion could be formed *(specify)*:

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the whole application or for said claims Nos. 1,11,19

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form	☐	has not been furnished
	☐	does not comply with the standard
the computer readable form	☐	has not been furnished
	☐	does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	19-23
	No:	Claims	1-18
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-23
Industrial applicability (IA)	Yes:	Claims	1-23
	No:	Claims	

2. Citations and explanations

see separate sheet

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

Clarity (Article 6 PCT)

Present independent claims 1, 11, 19 are not clear, because the term "cannabidiol compound" has not a clearly defined meaning generally accepted in the art.
Therefore, the search and substantive examination will be performed on the basis of the compounds according to formula (I).

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Documents (D) considered to be relevant to novelty and inventive step

D1: **"Cannabis-based medicines--GW pharmaceuticals: high CBD, high THC, medicinal cannabis--GW pharmaceuticals, THC:CBD." DRUGS IN R&D. 2003, vol. 4, no. 5, 2003, pages 306-309, XP009048624 ISSN: 1174-5886**

D2: **WO 99/53917 A (THE GOVERNMENT OF THE UNITED STATES OF AMERICA, REPRESENTED BY THE SEC) 28 October 1999 (1999-10-28)**

D3: **WO 03/063847 A (GW PHARMA LIMITED; WHITTLE, BRIAN; JAVID, FARIDEH, AFSHIN) 7 August 2003 (2003-08-07)**

D4: **WEISS LOLA ET AL: "Cytokine production in Linomide-treated nod mice and the potential role of a Th (1)/Th(2) shift on autoimmune and anti-inflammatory processes." CYTOKINE. 21 JUL 2002, vol. 19, no. 2, 21 July 2002 (2002-07-21), pages 85-93, XP002330933 ISSN: 1043-4666**

D5: **SRIVASTAVA M D ET AL: "DELTA 9 TETRAHYDROCANNABINOL AND CANNABIDIOL ALTER CYTOKINE PRODUCTION BY HUMAN IMMUNE CELLS" IMMUNOPHARMACOLOGY, ELSEVIER SCIENCE PUBLISHERS BV, vol. 40, no. 3, October 1998 (1998-10), pages 179-185, XP000957596 ISSN: 0162-3109**

The numbering will be adhered to in the rest of the procedure.

1. Novelty (Article 33(2) PCT)

1.1. The subject-matter of present claims 1-5 is not new in the light of D1.
D1 (page 307, 4th full paragraph) discloses the use of a combined preparation of

CBD and THC for the treatment of patients with peripheral neuropathy secondary to diabetes mellitus.

The wording of the claims does not exclude the co-administration of further drugs apart from CBD. Moreover, the therapeutic administration to (i) patients with peripheral neuropathy secondary to diabetes mellitus cannot be distinguished from a therapeutic administration to (ii) patients with diabetes, since patient group (i) falls within patient group (ii).

1.2. The subject-matter of present claims 1-18 is not new in the light of D2.
D2 (page 3, line 26-30; page 10, line 31-34; page 11, line 12-27; page 23, line 17-19) discloses the use of CBD for its antioxidant property for the treatment of oxidative associated diseases including autoimmune diseases, such as diabetes. Autoimmune diabetes is type 1 diabetes and includes insulitis.

1.3. The subject-matter of present claims 1-5 is not new in the light of D3.
D3 (page 1, line 18-25; page 2, line 28 - page 3, line 21) discloses the use of a cannabis extract rich in CBD for the treatment of nausea occurring in diabetes. Therapeutic use in (i) patients with nausea occurring in diabetes mellitus cannot be distinguished from a therapeutic use in (ii) patients with diabetes, since patient group (i) falls within patient group (ii).

2. Inventive step (Article 33(3) PCT)

2.1. The subject-matter of present claims 1-5, 7-10 does not involve an inventive step, because the problem of providing an effective treatment is not solved for the whole scope of the claims.
The invention on file is based on the finding that CBD has positive effects in NOD mice. As stated in the application itself (cf. page 17, line 31 - page 18, line 2) NOD mice develop spontaneous autoimmune diabetes and, therefore, represent an experimental model for insulin-dependent diabetes mellitus. Thus, the experimental evidence provided is clearly limited to type 1 diabetes and there are no facts provided supporting an extrapolation to type 2 diabetes. Thus, any subject-matter directed to or including the treatment of type 2 diabetes canot be considered as being solved and, hence, as involving an inventive step.

2.2. The subject-matter of claims 1-23 does not involve an inventive step in the light of D4 and D5.
Like the application on file D4 deals with the treatment of autoimmune diabetes and

insulitis in NOD mice. According to D4 (figure 1; figure 4; page 87-91, paragraph entitled "Discussion") linomide reduced inter alia levels of TNF alpha and IFN gamma and prevents autoimmune insulitis and diabetes mellitus in NOD mice. D4 concludes that "Linomide and/or non-immunosuppressive agents with a similar mode of action may prove to be promising tools for the treatment of type I diabetes mellitus". D4 does not disclose a CBD compound.
The objective technical problem to be solved in the light of D4 was to provide further agents with a mode of action similar to linomide and effective in the treatment of type I diabetes mellitus.
D5 (page 183-184, paragraph entitled "Discussion") discloses a mechanism of action similar to that of linomide for CBD in autoimmune/inflammatory diseases by inhibitiion of TNF alpha and IFN gamma and, there with, directly points to the use of CBD for the treatment of type 1 diabes, insulitis and the protection of transplanted pancreatic cells.

Conclusion

In view of the far-reaching anticipation by the prior art cited it is at present apparent which part of the application could serve as a basis for a new, allowable claim. In any case limitation to type 1 diabetes appears to be inevitable.